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Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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CONFERENCE OF THE STATES PARTIES
Under Article 29 of the Convention
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CONSIDERATION OF THE AMENDMENT TO ARTICLE 17, PARAGRAPH 7, AND ARTICLE 18, PARAGRAPH 5, OF THE CONVENTION PROPOSED BY AUSTRALIA UNDER ARTICLE 29, PARAGRAPH 1, OF THE CONVENTION

Note by the Secretary-General

1. At present, there are seven international human rights instruments in force that provide for monitoring of treaty implementation by expert bodies. The activities of five of the expert bodies are fully funded from the regular budget of the United Nations. However, the activities of the Committee against Torture established under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment are totally funded by the States parties to that Convention. The activities of the Committee on the Elimination of Racial Discrimination established under the International Convention on the Elimination of All Forms of Racial Discrimination are partially funded by the States parties to that instrument.

2. The delayed payment or non-payment of financial assessments by a significant number of States parties to the International Convention on the Elimination of All Forms of Racial Discrimination has perturbed the operations of the Committee on the Elimination of Racial Discrimination for several years and has given rise to widespread concern about the ability of that Committee to carry out its important responsibilities in a normal and efficient manner. Those concerns, and the possibility that the Committee against Torture may also come to experience similar difficulties in the future, have led both the independent expert who carried out a study on "Possible long-term approaches to enhancing the effective operation of existing and prospective bodies established under United Nations instruments on human rights" (A/44/668), and

the third meeting of persons chairing human rights treaty bodies (A/45/636), to recommend that consideration be given to providing full funding from the regular budget of the United Nations for the operation of all treaty bodies. This recommendation was noted with interest by the General Assembly in its resolution 45/85 of 14 December 1990.

3. Pursuant to Commission on Human Rights resolution 1991/20 of 1 March 1991, the Secretary-General submitted a report examining the financial, legal and other implications of providing full funding for the operation of all human rights treaty bodies to the General Assembly at its forty-sixth session. The report noted, inter alia, that it would be necessary to invoke the amendment provisions in the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment if responsibility for funding the activities of the two treaty bodies concerned were to be formally vested in the United Nations (A/46/650, para. 7).

4. By its resolution 46/111 of 17 December 1991, the General Assembly, inter alia, endorsed the recommendation of the meeting of persons chairing the human rights treaty bodies that the General Assembly should take appropriate measures to ensure the financing of each of the committees from the United Nations regular budget; and invited the States Parties to the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to consider, as a matter of priority, all possibilities for putting arrangements for meeting the costs of implementing these treaties on a viable, guaranteed basis, including by considering possible amendment to the funding provisions of these treaties. Such amendment, in respect of the International Convention on the Elimination of All Forms of Racial Discrimination, has been proposed by the Government of Australia and was endorsed by the States Parties to that Convention at their 14th meeting on 15 January 1992.

5. Article 29 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, sets out the following procedure concerning amendments:

> "1. Any State party to this Convention may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to the States Parties with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposal. In the event that within four months from the date of such communication at least one third of the States Parties favours such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of the States Parties present and voting at the conference shall be submitted by the Secretary-General to all the States Parties for acceptance.
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> "2. An amendment adopted in accordance with paragraph 1 of this article shall enter into force when two thirds of the States Parties to this Convention have notified the Secretary-General of the United Nations that they have accepted it in accordance with their respective constitutional processes.

"3. When amendments enter into force, they shall be binding on those States Parties which have accepted them, other States Parties still being bound by the provisions of this Convention and any earlier amendments which they have accepted."

6. In accordance with article 29, paragraph 1 of the Convention, the Government of Australia proposed on 9 January 1992 the following amendment to the Convention:

Paragraph 7 of article 17 and paragraph 5 of article 18 should be deleted.

The following provision should be inserted as the new paragraph 4 of article 18, of the Convention:

"4. The members of the Committee established under the present Convention shall receive emoluments from United Nations resources on such terms and conditions as the General Assembly may decide."

As a result of inserting the above provision, the existing paragraph 4 of article 18 should be renumbered as paragraph 5.

7. In compliance with article 29, paragraph 1, of the Convention, the Secretary-General, by a note verbale dated 20 March 1992, brought the proposed amendment to the attention of the States Parties and requested them to notify him within four months (i.e. by 20 July 1992) whether they favoured a conference of States Parties for the purpose of considering and voting upon the amendment. More than one third of the States Parties had notified him prior to that date that they favoured such a conference. */

8. Should the conference of the States Parties adopt the proposed amendment, a statement of programme budget implications concerning the financing of the Convention from the regular budget of the United Nations would be submitted by the Secretary-General to the General Assembly at its forty-seventh session.

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*/ Namely, Australia, Austria, Brazil, Canada, Colombia, Cyprus, Czech and Slovak Federal Republic, Denmark, Ecuador, Finland, France, Germany, Hungary, Jordan, Liechtenstein, Luxembourg, Malta, Mexico, Netherlands, New Zealand, Norway, Panama, Portugal, Romania, Russian Federation, Spain, Sweden, Switzerland and Uganda.